

**APPLICANT:**  
**Michael and Linda Milano**

**REQUEST:** A variance to allow  
a sunroom within the required 30 foot  
total side yard setback in the R2 District

**HEARING DATE:** March 17, 2004

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5401**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANTS:** Michael and Linda Milano

**LOCATION:** 808 May Court / Oakridge subdivision, Bel Air  
Tax Map: 49 / Grid: 1C / Parcel: 862 / Lot: 100  
Third Election District

**ZONING:** R2 / Urban Residential

**REQUEST:** A variance pursuant to Section 267-36B, Table V, of the Harford County Code, to construct a sunroom within the required side yard setback.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

Michael J. Milano, the Applicant, identified his property as being improved by a single family, two-story colonial home. The property is located in the Oakridge subdivision of Bel Air. Mr. and Mrs. Milano wish to construct a 14 foot by 17 foot sunroom to the rear of their house. Because of the chimney and bilco door located to their rear of their house on an extended family room, the sunroom must, by necessity, be located to the side. In the record, and offered by the Applicant, is a sketch plan showing the proposed location of the sunroom. In the area in which the sunroom is to be located was an existing deck which has been removed by the Applicants.

Mr. Milano testified that his rear yard slopes somewhat downward from the rear of his home, and then sharply upwards. This topography also further limits the ability of the Applicants to construct a sunroom directly to the rear of the house. The sunroom, as proposed, would come to within 10½ feet of the side yard, which requires a 3 foot variance. This location is somewhat farther removed from the side yard than was the recently removed deck.

The Applicants have talked to their neighbors, particularly their closest neighbors, and none had any opposition. Mr. Milano offered into evidence a letter from his most closely impacted neighbor who expressed no opposition. The Applicant expressed his willingness to landscape the proposed sunroom. He believed there would be no adverse impact on the neighborhood or adjoining neighbors.

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Next testified Anthony McClune of the Harford County Department of Planning and Zoning. According to Mr. McClune, because of the chimney and bilco door to the rear family room extension of the house, and existing topography, the extension of the sunroom to the rear of the house would be virtually impossible. The only practical location for the sunroom is as proposed, that is, to the side of the house. Mr. McClune and the Department believe there would be no adverse impact on any adjoining property owner if the requested variance were granted.

There was no evidence or testimony presented in opposition.

### **APPLICABLE LAW:**

The Applicants are requesting a variance to the requirements of Section 267-36B, Table V, of the Harford County Code.

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

*A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

*(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*

*(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

*B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

*C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

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### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants propose to build a sunroom to the rear side of their home adjacent to an existing family room. The sunroom to all appearances would be very typical of others built in similar residential subdivisions. The configuration of the Applicants' rear yard, combined with the chimney and door which exists to the rear of the house on a family room extension, cause the Applicants to be unable to build such a typical sunroom without impacting the required side yard. The rear yard configuration and the configuration of the existing house constitute unusual circumstances, which, without the requested variance, would cause the Applicants the practical difficulty of not being able to build a typical sunroom, one enjoyed by others in their neighborhood.

It is further found that the requested variance is the minimum necessary to alleviate the difficulty. There would be no adverse impact on adjoining neighbors. Examination of the Limitations, Guides and Standards section of the Harford County Code, Section 267-9I indicates no adverse impact on neighborhood or adjoining properties, nor any impairment to the Code, if the variance were granted.

### **CONCLUSION:**

For the above reasons it is recommended the requested variance be granted, subject to the following:

1. The Applicants obtain all necessary permits and inspections for the addition.
2. The Applicants prepare and submit to the Harford County Department of Planning and Zoning for its review and approval a landscaping plan sufficient to mitigate the impact of the proposed sunroom from both May Court, and the adjoining neighbor.

Date: April 6, 2004

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner